

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:15-cv-00146-MR
[CRIMINAL CASE NO. 1:06-cr-00048-MR-DLH-1]**

LESLIE WADE WALKER,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on Petitioner’s Motion to Vacate [Doc. 1]; Petitioner’s Supplement to Motion to Vacate Sentence under 28 U.S.C. § 2255 and Motion for Immediate Release [Doc. 5] and the Government’s Response in Support [Doc. 6].

Petitioner seeks relief from his 212-month sentence under 28 U.S.C. § 2255, arguing that he was improperly sentenced as an armed career criminal because he does not have three prior convictions for violent felonies within the meaning of the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e). Petitioner relies on the Supreme Court’s decision in Johnson v. United States, 135 S. Ct. 2551 (2015). In its response, the Government concedes that, in light of Johnson, Petitioner no longer qualifies as an armed career

criminal. The Government further concedes that Petitioner is entitled to immediate release because he has served more than the 120-month maximum term of imprisonment that applies without the ACCA enhancement. [Doc. 6].

For the reasons stated in the Government's Response, the Court will grant Petitioner's motion to vacate and resentence the Petitioner to a term of 120 months' imprisonment. It is the intention of the Court that this resentencing will result in the expeditious release of the Petitioner from the Bureau of Prisons.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Petitioner's Motion to Vacate [Doc. 1], as supplemented [Doc. 5], is **GRANTED**.

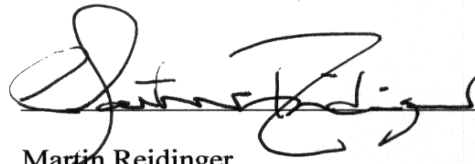
IT IS FURTHER ORDERED that the Petitioner's sentence of 212 months' imprisonment is hereby **VACATED**, and the Petitioner is hereby resentedenced to a term of 120 months' imprisonment with a subsequent term of supervised release of three (3) years. All other remaining provisions of the Petitioner's Judgment [Criminal Case No. 1:06-cr-00048-MR-DLH-1, Doc. 25] shall remain in full force and effect.

The Clerk of Court is directed to certify copies of this Order to counsel for the Government, counsel for the Petitioner, the United States Bureau of

Prisons, the United States Marshals Service, and the United States Probation Office. The Clerk of Court is further directed to close this civil case.

IT IS SO ORDERED.

Signed: July 11, 2016


Martin Reidinger
United States District Judge

